Office-Supreme Court, U.S.
FILED
JUL 15 1966
JOHN F. DAVIS, CLERK

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. 353

ALPHONSE LEWIS, JR.,
Petitioner,

vs.

No. 15,669

CITY OF GRAND RAPIDS, MICHIGAN, WILLIAM A. JOHNSON, Superintendent of Grand Rapids Police Department, their commissioners, officials, officers, attorneys, agents, employees and any others acting for, with or in concert with any of them, et al.,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

ALPHONSE LEWIS, JR.
Attorney for Petitioner
Business Address:
418 Houseman Building
Grand Rapids, Michigan

AMERICAN BRIEF AND RECORD COMPANY, FIFTY MARKET AVENUE, N.W., GRAND RAPIDS, MICHIGAN 49502 — PHONE GL 8-5326

INDEX

	Page
Citations to Opinions Below	1
Jurisdiction	2
Questions Presented	2
Statement of the Case	3
Reasons for Granting the Writ of Certionari	10
Introduction	10
I. Where an applicant for transfer of a liquor license and business has an officially approved and substantial financial interest in said business, a fair and due process hearing is required before denial of said transfer	11
II. Petitioner was denied due process of law under state statute and therefore denied equal protection of the law under the federal statute	14
III. The Due Process Clause of the Fourteenth Amendment does apply to liquor licensing as squarely determined by *Hornsby v. Allen,* 326 F. 2d 605 (1964) in the Fifth Circuit and *Minkhoff v. Payne,* 210 F. 2d 689 (1953) and squarely rejected by the 6th Circuit Court of Appeals in this case	15
IV. The decision of the Court of Appeals in this case conflicts with the United States Supreme Court's decisions in *Schware v. Board of Bar Examiners,* 353 U.S. 232, 1 L. Ed. 2d 796 (1957); *Goldsmith v. United States Board of Tax Appeals,* 270 U.S. 117 (1926); *Greene v. McElroy,* 360 U.S. 474, 3 L. Ed. 2d 1377 (1959); *Willner v. Committee on Character and Fitness,* 373 U.S. 96, 83 S. Ct. 1175, 10 L. Ed. 2d 224 (1962)	16

Page

V. Petitioner was denied equal protection of the law by use of unrecorded reasons in the separate record "identified as the causes" for disapproval of the transfer of the liquor license to him by the defendants 17

VI. The rights of petitioner, a Negro attorney, under the 14th Amendment, were violated by defendants' claim that no attorney should be a liquor licensee because the record shows that all Negro attorney applicants were disapproved and white attorney applicants were approved. The only two denials of non-Negro applicants have been one for making a critical statement about the police, and the other "for political reasons"... 24

VII. The Court of Appeals erred in reversing the findings of the District Court on the facts developed in a six weeks trial and patently erred in its determination that petitioner was not denied due process or equal protection of the law by racial and invidious discrimination and arbitrary, capricious and unreasonable denial of the transfer of said liquor license. 25

Petition for Rehearing 27

CONCLUSION 30

APPENDICES:

Appendix A — Appellee's Supplemental Appendix — (Continuation of Folios from Main Appendix) 399b

Appendix B — Opinion of the District Court 1c

Appendix C — Opinion of the Court of Appeals 85c

— Judgment of the Court of Appeals 121c

— Order Denying Petition for Rehearing 123c

TABLE OF AUTHORITIES

Cases: Page

Buddy and Lloyd's Store No. 1 v. City Council, 377 P. 2d 390 (Colo.) 13
Cafeteria Workers v. McElroy, 367 U.S. 886 L. Ed. 2d 1230 (1961) 10
Cf Donovan v. Clarke, 233 F. Supp. 795 (1963) (D.C.) 13
Crowley v. Christensen, 137 U.S. 86, 34 L. Ed. 620 (1890) 10
Facination, Inc. v. Hoover, 264 P. 2d 656, 662 (1952) 12
Geer v. Smoldone, 326 P. 2d 978 (Colo.) 13
Geer v. Stathopulos, 135 (Colo.) 146, 309 P. 2d 606 13
Glicker v. L. C. C., 160 F. 2d 96, 7. C.C.A. 6 (1947) ..13, 14, 17
Goldsmith v. United States Board of Tax Appeals, 270, 278 U.S. 117 (1926) 2, 10, 12, 16
Greene v. McElroy, 360 U.S. 474, 3 L. Ed. 2d 1377 (1959) 2, 12, 16
Hornsby v. Allen, 326 F. 2d 605 (C.A. 5, 1964) 2, 10, 12, 15, 17, 27
Martin v. Board of Supervisors, 26 P. 2d 843 (Cal. 1933) 13
Midwest Beverage Co. v. Gates, 61 F. Supp. 688 (N.W. Ind) (1945) 13
Minkhoff v. Payne, 210 F. 2d 689 (C.A. D.C. 1953) 2, 10, 12, 15, 17
Munroe v. Alcoholic Beverage Control Appeal Board, 325 P. 2d 533 (Cal.) 13
People v. Walsh, 155 N.E. 575, 578 12
Reed v. Collins, 90 P. 973 (Cal. App.) 13
Schware v. Board of Bar Examiners, 353 U.S. 232, 236, 1 L. Ed. 2d 796 (1957) 2, 10, 11, 12, 16
Sheeley v. Board of County Commissioners, 325 P. 2d 275 (Colo.) 13
United States v. U. S. Gypsum, 333 U.S. 364, 365, 92 L. Ed. 746 .....26, 28
Willner v. Committee on Character and Fitness, 373 U.S. 96, 83 S. Ct. 1175, 10 L. Ed. 2d, 224 (1962) 2, 10, 11, 12, 16, 27

Page

Statutes Involved:

Compiled Laws Supplement 1956, Section 24.101-24.110 14

Compiled Laws, Section 3.560(21.8), 48 24.108 14

Federal Rules of Civil Procedure, Rule 52 26

M.S.A. 3.560(7)-3.560(18) By-Laws 48, Section 24-71-24.82 14

M.S.A. 3.560(21-1)-3.560(21.10) 14

M.S.A. 18.988 14

P. A. 1960, Act. 151 14

28 U. S. C., Sec. 1254(1) 2

Other Authorities:

70 Harvard Law Review 293 10

70 Harvard Law Review 193, 263 12

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. _____

ALPHONSE LEWIS,
Petitioner,

vs.

CITY OF GRAND RAPIDS, MICHIGAN, et al.,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Petitioner prays that a writ of certiorari issue to review the judgment of the Court of Appeals for the Sixth Circuit entered in the above-entitled cause on February 16, 1966, rehearing having been denied on April 7, 1966.

CITATIONS TO OPINIONS BELOW

The opinion of the District Court is set forth at Appendix B, infra p.p. 1c-84c, and reported at 222 F. Supp. 349. The opinion of the Court of Appeals, printed in Appendix C, infra, p.p. 85c-123a, is reported at 356 F. 2d 276.

Appellee's Supplemental Appendix to the printed record in the Court of Appeals is printed as Appendix A with the pages continued from the main Appendix.

9 copies of the record have been filed under Rule 21 (4).